



Office of the Attorney General

State of Texas

November 24, 1998

DAN MORALES
ATTORNEY GENERAL

Mr. Rus Bailey
Assistant Criminal District Attorney
Randall County Courthouse
501 16th Street, Capital Station
Canyon, Texas 79015

OR98-2843

Dear Mr. Bailey:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 119887.

Randall County (the "county") received a request for information about any attempt by the Internal Revenue Service ("IRS") to garnish a particular county employee's wages. You contend that this information is excepted from required public disclosure.¹ We agree.

Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by statute. Prior decisions of this office have held that title 26, section 6103(a) of the United States Code renders tax return information confidential. Attorney General Opinion H-1274 (1978) (tax returns); Open Records Decision Nos. 600 (1992) (W-4 forms), 226 (1979) (W-2 forms). Generally, any information gathered by the Internal Revenue Service regarding a taxpayer's liability under title 26 of the United States Code is confidential. *Mallas v. Kolak*, 721 F. Supp. 748 (M.D.N.C. 1989); *Dowd v. Calabrese*, 101 F.R.D. 427 (D.C. 1984). Accordingly, the county must withhold the requested information from disclosure pursuant to section 552.101 of the Government Code.

¹The county did not seek an open records decision from this office within the statutory ten-day deadline. See Gov't Code § 552.301. The county's delay in this matter results in the presumption that the requested information is public. See *id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ). In order to overcome the presumption that the requested information is public, a governmental body must provide compelling reasons why the information should not be disclosed. *Hancock*, 797 S.W.2d at 381. In this case, the applicability of section 552.101 of the Government Code constitutes a compelling reason.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script, reading "Karen Hattaway".

Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/mjc

Ref: ID# 119887

Enclosures: Submitted documents

cc: Mr. Herman Guetersloh
Reporter
Amarillo Globe-News
P. O. Box 2091
Amarillo, Texas 79166
(w/o enclosures)